THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3345 OF 2006

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Dated: 23-02-2006

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Between

Wilfred K. Rabindranath Nath,

S/o. K.M. Ravindranath, R/o.541,

Piccadily Row, Antioch, TW 37013,

U.S.A, and others.

(Petitioners are represented by their

power of Attorney Holder

Smt. Sarojini Rajasekharan,

W/o. J.E.F. Rajasekharan,

R/o. D.No.22-1-20/2, Rubbi

Buildings, Opp. MRO Office

R.R. Road, Kakinada.)

...PETITIONERS

AND

Commissioner,

Municipal Corporation of Kakinada,

Kakinada, East Godavari District.

...RESPONDENT

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus to declare the proposed action of the respondent in demolishing the structures of the house building of the petitioners bearing D.No.22-2-19 situated in R.R.Road, Kakinada, East Godavari District for the purpose of widening of the roads without issuing any notice and without paying compensation as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners are the absolute owners and possessors of the aforementioned premises in Kakinada town and municipality. The Kakinada municipality has been recently upgraded as Municipal Corporation.
In view of the traffic congestion and to have free flow of traffic the Kakinada Municipal Corporation has decided to widen the roads, for which they have identified certain roads in the entire Kakinada municipal corporation. Learned counsel for the petitioners further submits that the petitioners are not at all against the road-widening programme of the respondent and they have no objection for the said programme if their lands are acquired and if proper compensation is paid.

The only grievance of the petitioners is that the respondent without issuing any notices, without paying any compensation for their structures or the lands and without following due process of law, is threatening to demolish the existing structures of the petitioners for the purpose of road-widening.

The learned counsel for the petitioners further submits that the action of respondent without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 or 147 of the Municipal Corporation Act (for short ‘the Act’).

No doubt, the road widening process is in the interest of public at large. Insofar as the private properties are concerned, I am of the opinion that the respondent has to follow the due process of law while proceeding to demolish the structures. This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private

citizens without following due process of law.

Having regard to the facts and circumstances of the case,
this writ petition is disposed of directing the respondent not to demolish the structures or take away any portion of the properties of the petitioners without following due process of law either under Sections 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.
No costs.

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V. ESWARAIAH, J

February 23, 2006

DSK